

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD J. ZALAC,

Plaintiff,

v.

CTX MORTGAGE CORPORATION,

Defendant.

CASE NO. C12-1474 MJP

ORDER DENYING MOTION TO
REMAND

THIS MATTER comes before the Court on Plaintiff's motion to remand (Dkt. No. 30). The Court considered the motion, the response (Dkt. No. 33) and all relevant documents. The Court notes that Plaintiff did not file a reply brief. The Court DENIES Plaintiff's motion to remand.

Background

Plaintiff Richard J. Zalac filed his complaint in King County Superior Court in July of 2012 alleging claims for wrongful foreclosure and violations of Washington's Consumer

1 Protection Act. (Dkt. No. 33 at 2.) In August of 2012, Zalac amended his complaint to include a
2 claim under Washington's Little RICO statute, and federal claims under the Real Estate
3 Settlement Procedures Act ("RESPA") and the Fair Debt Collection Practices Act ("FDCPA").
4 (Dkt. No. 33 at 3.) Twenty-six days after Zalac filed his Amended Complaint, the Defendants
5 removed the matter to federal court. (*Id.*)

6 On December 3, 2012, Zalac filed this motion for remand, arguing the Court should
7 decline supplemental jurisdiction under 28 U.S.C. §1441(b). (Dkt. No. 30 at 2.) Zalac does not
8 assert lack of subject matter jurisdiction or request the Court decline jurisdiction over the federal
9 claims. Defendants respond that the motion to remand is untimely and improper because remand
10 of the state claims would cause federal and state claims based on the same set of facts to be
11 handled in parallel state and federal proceedings. (Dkt. No. 33 at 3-8.)

12 Discussion/Analysis

13 The motion for remand is DENIED. First, Defendants correctly assert the motion to
14 remand is untimely. A motion for remand must be made within 30 days of notice of removal
15 unless the party seeking remand is challenging subject matter jurisdiction. 28 U.S.C. §1447(c).
16 Zalac did not seek remand within 30 days of receiving notice of removal. (Dkt. No. 33 at 3.)
17 Notice of removal was filed on August 29, 2012. (Dkt. No. 1.) The motion for remand was not
18 filed until December 3, 2012. (Dkt. No. 30.) This is well past the 30 day deadline. Zalac does not
19 avoid the deadline by challenging subject matter jurisdiction. Instead, he asks the court to decline
20 supplemental jurisdiction, without any argument that the Court does not have jurisdiction over
21 them or the federal claims, which he wishes to retain. (Dkt. No. 30 at 2.) This motion is untimely
22 and is DENIED.

1 Second, even if there were no procedural defect barring remand, Zalac's motion fails on
2 the merits. Supplemental jurisdiction exists so state claims arising from facts in common with a
3 federal claim can be heard in one action in federal court, for the purposes of judicial economy,
4 convenience, and fairness to the litigants. Osborn v. Haley, 549 U.S. 225, 245 (2007). While a
5 district court may decline to exercise supplemental jurisdiction in a given case, the decision is
6 purely discretionary. Carlsbad Tech., Inc. v. HIF Bio, Inc., 556 U.S. 635, 639 (2009).

7 Zalac asks this Court to deny supplemental jurisdiction over state claims arising from the
8 same set of facts upon which he bases federal claims, which he acknowledges allow for
9 jurisdiction in federal court. (DKt. No. 30 at 2.) He argues the state claims "predominate" the
10 case, so remand is proper. This argument has no merit. The state and federal law claims appear
11 to be heavily related and declining supplemental jurisdiction over the state law claims would
12 create exactly the kind of inefficient duplicative litigation the supplemental jurisdiction statute,
13 28 U.S.C. §1367, seeks to avoid. Further, this District has ample experience dealing with the
14 state claims at issue in this case. See Bavand v. OneWest Bank FSB, 2012 U.S. Dist. LEXIS
15 71926, *9 (W.D. Wash. 2012).

16 Conclusion

17 Plaintiff's motion for remand is untimely and his argument does not support remand. The
18 motion is DENIED.

19 The clerk is ordered to provide copies of this order to all counsel.

20 Dated this 30th day of January, 2013.

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23 Marsha J. Pechman
24 Chief United States District Judge